

REMARKS

Applicant appreciates the Examiner's attention to the above referenced application. Reconsideration of the application is respectfully requested. Claims 1-20 were rejected. Claims 1, 8, 9, 16, and 17 have been amended. Claims 1-20 are now pending, of which claims 1, 9 and 17 are independent.

35 USC § 101 Rejection of the Claims

Claims 9-16 were rejected under 35 U.S.C. § 101 because the claimed invention was indicated to be directed to non-statutory subject matter. Claim 9 has been amended to clarify that the machine accessible medium is a machine accessible storage medium and is believed to be in condition for allowance. Applicant respectfully requests that claims 9-16 be allowed to pass to issuance.

35 U.S.C. § 112 Rejection of the Claims

Claims 8 and 16 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 8 and 16 have been amended to address this rejection and are believed to be in condition for allowance. Applicant respectfully requests that claims 8 and 16 be allowed to pass to issuance.

35 USC § 103 Rejection of the Claims

Claims 1, 3-4, 7-9, 11-12, 15-17 and 19-20 were rejected under 35 U.S.C § 103(a) as being unpatentable over Pettis et al. (U.S. Patent No. 5,212,794) in view of Ducasse et al. (Non Patent Literature: "A Language Independent Approach for Detecting Duplicated Code", 1999, Proceeding of the IEEE International Conference on Software Maintenance, pg. 109.). Applicant respectfully traverses this rejection, which should be withdrawn for at least the reasons set forth herein.

Amended independent claim 1 appears below:

1. A method comprising:
 - obtaining performance data for software that has executed in a data processing system, wherein the performance data comprises a plurality of instruction addresses and corresponding performance information for each instruction address of the plurality of instruction addresses;
 - obtaining dump information from the data processing system, wherein the dump information comprises a plurality of instructions, with each instruction of the plurality of instructions having a corresponding instruction address of the plurality of instruction addresses;
 - automatically identifying common code segments in the dump information, wherein a common code segment comprises an ordered set of multiple instructions that appears multiple times in the dump information; and
 - generating aggregate performance data for the common code segments, based at least in part on the instruction addresses associated with the common code segments from the dump information, the instruction addresses from the performance data, and the corresponding performance information from the performance data.

Independent claims 9 and 17 contain substantially similar limitations.

The Office Action states that Pettis teaches “performance information” in column 2, lines 51-54, which state, “[t]he method uses statistical information obtained by running the computer code with test data... .” The Office Action states that “the disclosed information must include information for mapping the executed instruction(s) to corresponding instructions in the source code, this at least broadly constitutes an address.” Applicant respectfully disagrees.

Nothing in Pettis suggests that the statistical information is collected *for individual instruction addresses*; rather, Pettis is concerned with “the frequency with which each basic block of said first set of basic blocks transfers control to each other basic block of said first set of basic blocks.” (Pettis, column 2, lines 65-68). The first “set of basic blocks is comprised of computer code arranged in a first linear order” (Pettis, column 2, lines 59-65), which implies that each set of basic blocks is made up of multiple lines of source code, each of which would be compiled into one or more instructions, with each instruction having its own respective instruction address. Nothing in Pettis teaches obtaining performance data that comprises “a plurality of instruction addresses and *corresponding performance information for each instruction address* of the plurality of instruction addresses,” as now required by independent claims 1, 9, and 17. For at least this reason, independent claims 1, 9 and 17 are allowable, as are

respective dependent claims 2-8, 10-16, and 18-20. Applicant respectfully requests that claims 1-20 be allowed to pass to issuance.

The Office Action states that Pettis, column 2, lines 59-61, teach “obtaining dump information, wherein the dump information comprises the instructions and corresponding instruction addresses.” (Office Action dated September 13, 2010, page 4). Pettis, column 2, lines 59-61 indicate that “[t]he first computer program comprising a set of basic blocks of computer code arranged in a first linear order...,” and the Office Action states that the disclosure of a ‘linear order’ indicates that this data includes at least local or relative address information. Applicant believes this portion of Pettis to be describing source code and not, as now claimed, “dump information [that] was produced during execution of the software.” For at least this reason, independent claims 1, 9 and 17 are allowable, as are respective dependent claims 2-8, 10-16, and 18-20. Applicant respectfully requests that claims 1-20 be allowed to pass to issuance.

Claims 2, 6, 10, 14 and 18 were rejected under 35 U.S.C § 103(a) as being unpatentable over Pettis et al. (U.S. Patent No. 5,212,794) in view of Ducasse et al. (Non Patent Literature: “A Language Independent Approach for Detecting Duplicated Code”, 1999, Proceeding of the IEEE International Conference on Software Maintenance, pg. 109) in view of Chauvel et al. (U.S. Publication No. 2004/0010785 A1). Claims 2, 6, 10, 14, and 18 depend, respectively, from independent claims 1, 9, and 17, which have been shown to be allowable over the combination of Pettis and Ducasse. Chauvel does not remedy the failure of Pettis and Ducasse to teach all claim elements. For at least the reasons set forth above, these dependent claims 2, 6, 10, 14, and 18 are allowable. Applicant respectfully requests that claims 2, 6, 10, 14, and 18 be allowed to pass to issuance.

Claims 5 and 13 were rejected under 35 U.S.C § 103(a) as being unpatentable over Pettis et al. (U.S. Patent No. 5,212,794) in view of Ducasse et al. (Non Patent Literature: “A Language Independent Approach for Detecting Duplicated Code”, 1999, Proceeding of the IEEE International Conference on Software Maintenance, pg. 109) in view of Baker et al. (Non Patent Literature: “A Program for Identifying Duplicated Code”, 1992, Proc. Computing Science and Statistics: 24th Symp. Interface, vol. 24, pp. 49-57). Claims 5 and 13 depend, respectively, from independent claims 1 and 9, which have been shown to be allowable over the combination of

Pettis and Ducasse. Baker does not remedy the failure of Pettis and Ducasse to teach all claim elements. For at least the reasons set forth above, these dependent claims 5 and 13 are allowable. Applicant respectfully requests that claims 5 and 13 be allowed to pass to issuance.

CONCLUSION

Applicants respectfully request reconsideration in view of the remarks and amendments set forth above. If the Examiner has any questions, the Examiner is encouraged to contact the undersigned at (512) 732-1303. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0221 and please credit any excess fees to such account.

Respectfully submitted,

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